IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

MACA.No. 1327 of 2004()

OPMV.2104/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM
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: APPELLANTS/PETITIONERS 1 TO 3:
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1. SAJITHA, W/O. LATE MR.GOPIDAS,
RAAHUL BHAVAN, THAICHIRA, KAVANATTINKARA KARA,
KUMARAKOM VILLAGE, KOTTAYAM TALUK.

2. GRESHMA, D/O. LATE MR.GOPIDAS,
RAAHUL BHAVAN, THAICHIRA, KAVANATTINKARA KARA,
KUMARAKOM VILLAGE, KOTTAYAM TALUK.

3. RAHUL DAS, S/O. LATE MR.GOPIDAS,
RAAHUL BHAVAN, THAICHIRA, KAVANATTINKARA KARA,
KUMARAKOM VILLAGE, KOTTAYAM.
(APPELLANTS 2 AND 3 ARE MINORS AND ARE REP. BY
THEIR MOTHER AND GUARDIAN THE 1ST APPELLANT).

BY ADV. SRI.JACOB ABRAHAM

RESPONDENTS: RESPONDENTS 1 TO 3 AND PETITIONERS 4 & 5:
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1. K.R.KUTTAPPAN @ APPU, S/O. RAMAN,
KALATHIL HOUSE, KUMARAKAM NORTH, KOTTAYAM.

2. ANANDAKUTTAN, S/O. PURUSHAN,
KAREEL HOUSE, KUMARAKAM NORTH, PALLICHIRA,
KOTTAYAM.

3. THE NEW INDIA ASSURANCE CO. LTD.,
KOTTAYAM-686 002.

4. LAKSHMI, W/O. RAGHAVAN,
THAICHIRA HOUSE, VIRUPPUKALA, CHEEPUNKAL,
AYMANAM VILLAGE, KOTTAYAM.

5. RAGHAVAN, S/O. LATE KUNHAN,
THAICHIRA HOUSE, VIRUPPUKALA, CHEEPUNKAL,

AYMANAM VILLAGE, KOTTAYAM.

R1 BY ADV. SRI.T.K.KOSHY
R2 BY ADV SRI.SIBY MATHEW
R3 BY ADV. SRI.A.A.MOHAMMED NAZIR
SRI.KKM.SHERIF
SRI.A.A.ZIYAD RAHMAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON 27/11/2007 DELIVERED THE FOLLOWING:

K.S. Radhakrishnan &
T.R. Ramachandran Nair, JJ.

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M.A.C.A.NO.1327 OF 2004

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Dated this the 27th day of November, 2007.

JUDGMENT

T.R. Ramachandran Nair, J.

The appellants are the claimants before the Motor Accidents Claims Tribunal, Kottayam in O.P.(MV) No.2104/2000. As per the award, the Tribunal has granted a total compensation of Rs.7,08,000/- with 6% interest, to be realised from the third respondent insurance company.

2. The claimants seek enhancement of the award passed by the Tribunal. They are the widow, children and the parents of the deceased Gopidas.

3. The accident occurred on 21.11.2000. The deceased was aged 39 years at the time of the accident. Learned counsel for the appellants invited our attention to the various heads of the claim and the amounts awarded under those heads, to contend that the Tribunal has not awarded a just compensation. A perusal of the award shows that the Tribunal has adopted multiplier of 15 taking the age of the deceased between 40 to 45, in the absence of any positive evidence on that aspect before it. The deceased was a Police Constable and Ext.A6 salary certificate showed that he had

been drawing a total salary of Rs.5,824/- at the time of the accident. The loss of dependency has been worked out as Rs.6,75,000/- after deducting one third for the personal expense of the deceased. We find that there is no infirmity in the above assessment.

4. Learned counsel prayed for enhancement under the head of pain and suffering, for which the Tribunal has awarded Rs.5,000/-. The deceased succumbed to the injuries on the way to the hospital. Therefore, it cannot be stated that the amount awarded under this head is too low. Towards loss of consortium, an amount of Rs.25,000/- has been awarded, which is also reasonable. We also find that the amount awarded towards funeral expenses and transportation are also just and reasonable.

No grounds are made out to enhance the amount awarded by the Tribunal. Hence, the appeal is dismissed confirming the award of total compensation to the tune of Rs.7,08,000/- granted by the Tribunal.

(K.S. Radhakrishnan, Judge.)

(T.R. Ramachandran Nair, Judge.)

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